

7 Attorney for Defendants

UNITED STATES DISTRICT COURT

2 || CURTIS LEE WIMBERLY,

Plaintiff,

) Case No: 2:10-cv-01414-LDG-VCF

4 || vs.

CITY OF HENDERSON, a political subdivision  
of the STATE OF NEVADA; POLICE  
OFFICER JEFFREY BOTT individually and as  
a Police Officer employed by the CITY OF  
HENDERSON; POLICE OFFICER TRAVIS  
NUSBAUM individually and as a Police Officer  
employed by the CITY OF HENDERSON;  
POLICE OFFICER GUSTAVO LEIGH  
individually and as a Police Officer employed by  
the CITY OF HENDERSON; DOE OFFICERS  
1 through 3, individually and as Police Officers  
employed by the CITY OF HENDERSON;  
CHIEF OF POLICE JUTTA CHAMBERS  
Individually and as a Police Officer employed by  
the CITY OF HENDERSON; and ROE  
DEFENDANTS 1 through 10.

**Defendants.**

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1 Plaintiff CURTIS LEE WIMBERLY, by and through his attorney, Madeline L. DiCicco,  
2 Esq., and Defendants CITY OF HENDERSON, a political subdivision of the State of  
3 Nevada, POLICE OFFICER JEFFREY BOTT individually and as a Police Officer employed  
4 by the CITY OF HENDERSON, POLICE OFFICER TRAVIS NUSBAUM individually and as  
5 a Police Officer employed by the CITY OF HENDERSON, POLICE OFFICER GUSTAVO  
6 LEIGH individually and as a Police Officer employed by the CITY OF HENDERSON,  
7 CHIEF OF POLICE JUTTA CHAMBERS individually and as a Police Officer employed by  
8 the CITY OF HENDERSON, by and through their attorney, Nancy D. Savage, Esq.,  
9 Assistant City Attorney, hereby stipulate and agree, pursuant to FRCP 26 and FRCP 29,  
10 that a Confidentiality Agreement is hereby entered by the parties pursuant to the terms set  
11 forth below and that said Confidentiality Agreement shall be fully binding upon the parties,  
12 even in the absence of the court's entry of a protective order, effective upon the date that  
13 this Confidentiality Agreement and Stipulation for Protective Order is executed by Plaintiff's  
14 counsel.  
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16  
17 IT IS FURTHER STIPULATED AND AGREED that a protective order governing the  
18 use and handling of "confidential information" produced or disclosed in connection with the  
19 above-captioned case shall be entered upon the following terms and conditions:

20 1. **Confidential Information.** "Confidential Information," for purposes of this  
21 Order, is any and all information, documents and materials contained in the Henderson  
22 Police Department Internal Affairs Bureau file numbered PC2011-015, PC2010-039 and/or  
23 SC2010-017, any other any personnel information, records or portions thereof, and any  
24 documents produced at any time concerning Defendants, or any of them. All notes,  
25 memoranda, reports, or other written communications created or generated by counsel for  
26 the parties in this case, or by any experts or witnesses in this case that reveal or discuss  
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1 Confidential Information shall be given the same protections under this Order as the  
2 Internal Affairs Bureau file. The inclusion of documents or materials within the description  
3 of "Confidential Information" is not and should not be construed as a promise or agreement  
4 that any specific documents or materials are discoverable or that such will or must be  
5 produced. Defendants do not waive any objections that they may have to production of any  
6 materials or documents in this case by entering into this Agreement and Stipulation.  
7

8       2.     **Distribution of Confidential Information.** Confidential Information shall be  
9 produced only to counsel of record for the Plaintiff, who agrees in this action to be bound by  
10 the terms of this Order.

11       Neither the Confidential Information nor its contents shall be disclosed to any other  
12 person without the agreement of counsel for the Defendants, except that the counsel for  
13 the Plaintiff may, without further agreement, disclose the Confidential Information or its  
14 contents to the following persons, for use solely in connection with this action, under the  
15 following conditions:  
16

17       (a)   attorneys and legal assistants, whether employees or independent  
18 contractors, of counsel's firm and to any other employee of counsel's firms who shall  
19 handle the Confidential Information under normal office procedures:  
20

21       (b)   experts or consultants retained by a party with respect to this action;

22       (c)   individually-named parties to this litigation;

23       (d)   any person who has testified in or conducted the internal affairs investigation  
24 covered by this Confidentiality Agreement and/or Protective Order and who appears as a  
25 witness in a deposition or court proceeding in this action;

26       (e)   the Court before which this action is pending; and  
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1 (f) any court reporters present in their official capacity in any hearing, deposition  
2 or other proceeding in this action.

3 The parties may request the court to approve the showing of Confidential  
4 Information to individuals other than those identified above.

5  
6 3. **Use of Confidential Information.** Confidential information shall be  
7 used solely for the purpose of prosecution or defense of this action. The use of  
8 Confidential Information at trial or during discovery shall not be deemed a waiver of this  
9 Confidentiality Agreement or Protective Order. Subject to the exceptions set forth below,  
10 ~~any party wishing to use any Confidential Information in any brief, memorandum, affidavit of~~  
11 ~~other paper filed with the Court shall file all such affidavits, exhibits or other papers and any~~  
12 ~~portion of any brief or memorandum referring or alluding to said Confidential Information,~~  
13 ~~under seal, enclosing the documents, excerpts or exhibits in a sealed envelope, labeled~~  
14 ~~with the caption of the case, a brief description of the contents, and a statement that the~~  
15 ~~envelope is sealed pursuant to this Order.~~ The use of the Confidential Information at trial  
16 and in dispositive motions will be made pursuant to and governed by the requirements set  
17 forth in Kamakana v. City of Honolulu, 447 F. 3d 1172 (9<sup>th</sup> Cir. 2006).  
18


19 4. **Duration of This Confidentiality Agreement and Protective Order.** This  
20 Confidentiality Agreement and Protective Order shall remain in effect and survive any  
21 settlement, judgment, other disposition or conclusion of this action, and any appeals  
22 therefrom. This Court shall retain continuing jurisdiction of the above-referenced action for  
23 purposes of enforcing the terms of this Protective Order. Within 60 days following the final  
24 resolution of this action, all materials designated as confidential and/or containing  
25 Confidential Information and reproductions or copies thereof, shall be returned to counsel  
26 for the Defendants who produced said materials.  
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1           5.     **Application of the Order.** Production of the material pursuant to this  
2 Confidentiality Agreement and Protective Order does not waive any party's right to object to  
3 the admissibility of such material on the grounds other than confidentiality. The production  
4 of materials under this Order is not deemed to be a waiver of claims that the material is  
5 irrelevant or otherwise inadmissible in any judicial proceeding or filing that may occur in this  
6 litigation.  
7


8           6.     **Compliance with this Order.** All counsel in this case shall make a diligent  
9 and good faith effort to comply with this Confidentiality Agreement and Protective Order  
10 and ensure that their clients, and the persons receiving or given access to the Confidential  
11 Information similarly comply. In the event of a change in counsel, new counsel shall  
12 execute a copy of the Endorsement of this Confidentiality Agreement, Stipulation and  
13 Protective Order, attached hereto as Exhibit A.  
14

15           DATED this 14th day of March, 2012.

16     JOHNS & DURRANT, LLP

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18  
19     MADELINE L. DICICCO, ESQ.  
20     Nevada Bar No. 5934  
21     530 S. Las Vegas Blvd. #300  
22     Las Vegas, Nevada 89101  
23     Attorney for Plaintiff

CITY OF HENDERSON  
JOSH M. REID, City Attorney

24   
25     NANCY D. SAVAGE, ESQ.  
26     Assistant City Attorney  
27     Nevada Bar No. 392  
28     240 Water Street, MSC 144  
Henderson, NV 89009-5050  
Attorneys for Defendants

23           IT IS SO ORDERED this 14th day of March, 2012.

24   
25  
26     CAM FERENBACH  
27     UNITED STATES MAGISTRATE JUDGE  
28

## EXHIBT A

**ENDORSEMENT OF CONFIDENTIALITY AGREEMENT,  
STIPULATION FOR PROTECTIVE ORDER AND  
PROTECTIVE ORDER**

I, the undersigned, \_\_\_\_\_, hereby acknowledge and certify that I have received and read in its entirety a copy of the Confidentiality Agreement and/or Protective Order ("Order") entered on the \_\_\_\_\_ day of \_\_\_\_\_ 2012, in the matter entitled *Curtis Lee Wimberly v. City of Henderson, et al.*, Case No. 2:10-cv-01414-LDG-VCF pending before the Eighth Judicial District Court, Clark County, Nevada ("Court"). I understand the terms and conditions of the Order, agree to comply with and be bound by all of its provisions, and consent to the continuing jurisdiction of the Court with respect to enforcement of the Order, even if such enforcement proceeding(s) occur after termination of the action. I acknowledge that failure to comply with the terms and conditions of the Order could expose me to sanctions and punishment in the nature of contempt. I agree that any document(s) or information which I have received pursuant to the Order shall not be used by me for any purpose other than as provided in the Order and shall not be revealed by me to any person or entity except in strict compliance with the provisions of the Order. I will hold in confidence and not produce, disclosure or reveal to anyone not qualified under the Order any document(s) or information which I have received pursuant to the Order, and I will maintain any such document(s) or information in a safe and secure place.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name